

and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

SECTION 702—INSURED DEPOSITORY INSTITUTIONS

Mr. SHELBY. Mr. President, I rise to engage the distinguished Senators in a colloquy.

Section 702 of the Financial Services Regulatory Relief Act of 2006 clarifies that written conditions in applications and written agreements with institution-affiliated parties are enforceable in order to protect the safety and soundness of insured depository institutions. Institution affiliated parties can include bank directors, officers and principal shareholders. This provision was included at the request of the regulatory agencies, and we have heard some concerns that the regulatory agencies may use this language to require personal guarantees from bank directors and officers in inappropriate circumstances.

I ask Senator CRAPO if he can explain the legislative intent behind Section 702?

Mr. CRAPO. In adopting this provision, it is our intention that the regulatory agencies utilize Section 702 with care and precision. Specifically, we do not intend that the regulatory agencies use it routinely in connection with corporate applications, notices or requests to impose financial or other conditions on bank directors or officers that contain a personal guarantee against loss by the institution. In particular, it is not our intention that the regulatory agencies use it routinely to require directors or officers of insured depository institutions to enter into capital maintenance agreements with the agencies as a condition of granting a charter or providing deposit insurance. Nor is it our intention that the regulatory agencies use it routinely to require bank directors or officers to maintain the capital of a troubled insured depository institution without the director's or officer's agreement.

In utilizing their authority under Section 702 to enforce agreements to protect the deposit insurance fund, banking agencies should be mindful of the fact that our national banking policies should encourage the participation of highly qualified people on the boards of depository institutions. Creation of an environment where the threat of personal liability may cause bank directors to resign or keep well-qualified people from becoming directors in the first place would be counterproductive. We intend to monitor closely how this provision is applied by the regulatory agencies to ensure that such an environment does not result.

Mr. JOHNSON. I thank the Senator for his explanation. I understand that the regulatory agencies, specifically the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation agree

with this interpretation as does the House of Representatives.

Mr. CRAPO. That is correct. I ask unanimous consent to have printed in the RECORD a copy of a joint letter from the regulatory agencies confirming this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE COMPTROLLER OF THE CURRENCY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, OFFICE OF THRIFT SUPERVISION, FEDERAL DEPOSIT INSURANCE CORPORATION,

Washington, DC, August 7, 2006.

HON. MIKE CRAPO,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAPO: This responds to your letter dated July 28, 2006, concerning section 702 of S. 2856, "The Financial Services Regulatory Relief Act of 2006."

We agree completely that banking policies should welcome the participation of qualified individuals on the boards of directors of insured depository institutions. We believe that enactment of this section would be fully consistent with that goal and that the provision should be implemented in that spirit, if enacted.

Section 702 is intended to enable the appropriate Federal banking agency to enforce conditions imposed in writing in connection with any action on an application, notice or other request, and written agreements between a Federal banking agency and a depository institution or an institution-affiliated party, in accordance with the terms of the condition or agreement, without the necessity of showing unjust enrichment or reckless disregard for the law, applicable regulations, or prior order of the appropriate Federal banking agency. The language is intended to address the effect of court decisions in a few cases that questioned the authority of the banking agencies to enforce such conditions or agreements without first establishing that the institution-affiliated party was unjustly enriched or engaged in reckless disregard for the law or previous agency orders.

It is our intention to utilize this provision with care and precision. Specifically, we do not intend to use it routinely in connection with corporate applications, notices or requests to impose financial or other conditions on bank directors or officers that contain a personal guarantee against loss by the institution. In particular, it is not our intention to use it routinely to require directors or officers of insured depository institutions to enter into capital maintenance agreements with the agencies as a condition of granting a charter or providing deposit insurance. Nor is it our intention to use it routinely to require bank directors or officers to maintain the capital of a troubled insured depository institution without the director's or officer's agreement.

We hope this addresses your concerns. Sincerely,

JOHN C. DUGAN,
Comptroller of the
Currency.

JOHN M. REICH,
Director, Office of
Thrift Supervision.

BEN S. BERNANKE,
Chairman, Board of
Governors of the
Federal Reserve System.

SHEILA C. BAIR,
Chairman, Federal Deposit Insurance Corporation.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany S. 2430.

The PRESIDING OFFICER laid before the Senate a message from the House as follows:

S. 2430

Resolved, That the bill from the Senate (S. 2430) entitled "An Act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 2006".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) it is in the national interest to undertake activities in the Great Lakes Basin that support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Inter-agency Task Force);

(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

(5) as of the date of enactment of this Act, actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

(6) the Great Lakes Fish and Wildlife Restoration Act (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.

SEC. 3. DEFINITIONS.

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

(1) by striking paragraphs (1), (4), and (12);

(2) by redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), and (14) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12), respectively;

(3) in paragraph (4) (as redesignated by paragraph (2)), by inserting before the semicolon at the end the following: "and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin"; and

(4) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:

"(8) the term 'regional project' means authorized activities of the United States Fish and

Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin.”

SEC. 4. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

“SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.

“(a) **IN GENERAL.**—Subject to subsection (b)(2), the Director—

“(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

“(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

“(b) **IDENTIFICATION OF PROPOSALS AND REGIONAL PROJECTS.**—

“(1) **REQUEST BY THE DIRECTOR.**—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

“(2) **REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.**—A proposal or regional project under paragraph (1) shall be—

“(A) submitted in the manner and form prescribed by the Director; and

“(B) consistent with—

“(i) the goals of the Great Lakes Water Quality Agreement, as amended;

“(ii) the 1954 Great Lakes Fisheries Convention;

“(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

“(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

“(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

“(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

“(3) **SEA LAMPREY AUTHORITY.**—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

“(c) **REVIEW OF PROPOSALS.**—

“(1) **ESTABLISHMENT OF COMMITTEE.**—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

“(2) **MEMBERSHIP AND APPOINTMENT.**—

“(A) **IN GENERAL.**—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

“(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

“(ii) 1 representative shall have expertise in wildlife management.

“(B) **APPOINTMENTS.**—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

“(C) **OBSERVER.**—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

“(D) **RECUSAL.**—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

“(3) **FUNCTIONS.**—The Committee shall—

“(A) meet at least annually;

“(B) review proposals and regional projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of this title; and

“(C) recommend to the Director any of those proposals and regional projects that should be funded and implemented under this section.

“(d) **IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.**—

“(1) **IN GENERAL.**—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

“(A) select proposals and regional projects to be implemented; and

“(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

“(2) **SELECTION CRITERIA.**—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

“(e) **COST SHARING.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

“(2) **REGIONAL PROJECTS.**—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

“(3) **EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.**—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

“(4) **EFFECT ON CERTAIN INDIAN TRIBES.**—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).”

SEC. 5. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

Section 1006 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941d) is amended by striking paragraph (1) and inserting the following:

“(1) Restoring and maintaining self-sustaining fish and wildlife resources.”

SEC. 6. ESTABLISHMENT OF OFFICES.

Section 1007 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941e) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **GREAT LAKES COORDINATION OFFICE.**—

“(1) **IN GENERAL.**—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the ‘Great Lakes Coordination Office’.

“(2) **FUNCTIONAL RESPONSIBILITIES.**—The functional responsibilities of the Great Lakes Coordination Office shall include—

“(A) intra- and interagency coordination;

“(B) information distribution; and

“(C) public outreach.

“(3) **REQUIREMENTS.**—The Great Lakes Coordination Office shall—

“(A) ensure that information acquired under this Act is made available to the public; and

“(B) report to the Director of Region 3, Great Lakes Big Rivers.”

(2) in subsection (b)—

(A) in the first sentence, by striking “The Director” and inserting the following:

“(1) **IN GENERAL.**—The Director”;

(B) in the second sentence, by striking “The office” and inserting the following:

“(2) **NAME AND LOCATION.**—The office”; and

(C) by adding at the end the following:

“(3) **RESPONSIBILITIES.**—The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes.”; and

(3) in subsection (c)—

(A) in the first sentence, by striking “The Director” and inserting the following:

“(1) **IN GENERAL.**—The Director”;

(B) in the second sentence, by striking “Each of the offices” and inserting the following:

“(2) **NAME AND LOCATION.**—Each of the offices”; and

(C) by adding at the end the following:

“(3) **RESPONSIBILITIES.**—The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.”

SEC. 7. REPORTS.

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

“SEC. 1008. REPORTS.

“(a) **IN GENERAL.**—Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

“(1) actions taken to solicit and review proposals under section 1005;

“(2) the results of proposals implemented under section 1005; and

“(3) progress toward the accomplishment of the goals specified in section 1006.

“(b) **PUBLIC ACCESS TO DATA.**—For each of fiscal years 2007 through 2012, the Director shall make available through a public access website of the Department information that describes—

“(1) actions taken to solicit and review proposals under section 1005;

“(2) the results of proposals implemented under section 1005;

“(3) progress toward the accomplishment of the goals specified in section 1006;

“(4) the priorities proposed for funding in the annual budget process under this title; and

“(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

“(c) **REPORT.**—Not later than June 30, 2007, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before the date of enactment of the Great Lakes Fish and Wildlife Restoration Act of 2006.”

SEC. 8. CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.

The Director of the United States Fish and Wildlife Service—

(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

(2) may reassess and update, as necessary, the findings and recommendations of the report entitled “Great Lakes Fishery Resources Restoration Study”, submitted to the President of the

Senate and the Speaker of the House of Representatives on September 13, 1995.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

"SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

"(1) \$14,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e), of which—

"(A) not more than the lesser of 33 1/3 percent or \$4,600,000 may be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 1005(e); and

"(B) the lesser of 5 percent or \$700,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

"(2) \$2,000,000, which shall be allocated for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 1007."

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH AMERICAN WETLANDS CONSERVATION REAUTHORIZATION ACT OF 2006

TO REVISE THE BOUNDARIES OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM JEKYLL ISLAND UNIT GA-06P

TO REPLACE A COASTAL BARRIER RESOURCES SYSTEM MAP RELATING TO COASTAL BARRIER RESOURCES SYSTEM GRAYTON BEACH UNIT FL-95P IN WALTON COUNTY, FLORIDA

LAKE MATTAMUSKEET LODGE PRESERVATION ACT

NATIONAL FISH HATCHERY SYSTEM VOLUNTEER ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate en bloc consideration of five bills received from the House: H.R. 5539, H.R. 138, H.R. 479, H.R. 5094, and H.R. 5381.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read the third time and passed, a motion to reconsider be laid upon the table, and any statements relating to the bills be printed in the RECORD, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills were ordered to a third reading, read the third time, and passed.

LONG ISLAND SOUND STEWARDSHIP ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5160, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5160) to establish the Long Island Sound Stewardship Initiative.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5160) was ordered to a third reading, was read the third time, and passed.

BYRON NELSON CONGRESSIONAL GOLD MEDAL ACT

Mr. FRIST. I ask unanimous consent the committee on Banking, Housing and Urban Affairs be discharged from further consideration of H.R. 4902, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4902) to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4902) was ordered to a third reading, was read the third time, and passed.

TYLERSVILLE FISH HATCHERY CONVEYANCE ACT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 629, H.R. 4957.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4957) to direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4957) was ordered to a third reading, was read the third time, and passed.

ANIMAL ENTERPRISE TERRORISM ACT

Mr. FRIST. I ask unanimous consent the Committee on the Judiciary be discharged from further consideration of S. 3880, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3880) to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I thank the senior Senator from California for addressing concerns I had with an earlier version of this bill. I was particularly concerned about the apparent disconnect between the substantive offense created by the bill and the misdemeanor penalty for its violation. The offense requires proof that a defendant, for the purpose of damaging or interfering with the operations of an animal enterprise, "intentionally damages, or causes the loss of any property (including animals or records)" used by an animal enterprise. By contrast, the misdemeanor penalty provision applied to offenses involving "exclusively non-violent physical obstruction" of an animal enterprise facility, resulting in no bodily injury, no property damage, and no loss of profits.

It is difficult to imagine how a person can intentionally damage property, or intentionally cause the loss of property, while at the same time be engaged exclusively in nonviolent physical obstruction that causes no real harm. The only way these provisions could be reconciled would be by watering down the criminal prohibition to extend to peaceful conduct that the bill was never intended to cover.

The current version of the bill clears up the confusion. It strikes the misdemeanor provision in its entirety and clarifies that the substantive offense created by the bill requires proof of intentional damage to real or personal property, not simply a loss of profits. These changes will ensure that legitimate, peaceful conduct is not chilled by the threat of Federal prosecution, and that prosecution is reserved for the worst offenders.

Mr. FRIST. I ask unanimous consent the amendment at the desk be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.